

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 8. DEPARTMENT OF HEALTH SERVICES FOOD, RECREATIONAL AND INSTITUTIONAL SANITATION

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1641.) The Governor's Office authorized the notice to proceed through the rulemaking process on July 28, 2011.

[R11-109]

PREAMBLE

1. Sections Affected

R9-8-101
R9-8-102

Rulemaking Action

Amend
Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-136(A)(7) and (F)

Implementing statutes: A.R.S. § 36-136(H)(4) as amended by Laws 2011, Ch. 84

3. A list of all previous notices appearing in the *Register* addressing the proposed rules:

Notice of Rulemaking Docket Opening: 17 A.A.R. 1639, August 19, 2011 (*in this issue*)

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Diane Eckles, Office Chief

Address: Department of Health Services
Office of Environmental Health
150 N. 18th Ave., Suite 140
Phoenix, AZ 85007

Telephone: (602) 364-3142

Fax: (602) 364-3146

E-mail: Diane.Eckles@azdhs.gov

or

Name: Thomas Salow, Manager

Address: Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams St., Suite 203
Phoenix, AZ 85007

Telephone: (602) 542-1020

Fax: (602) 364-1150

E-mail: Thomas.Salow@azdhs.gov

5. An explanation of the rules, including the agency's reasons for initiating the rules:

Since the rules in *Arizona Administrative Code* (A.A.C.) Title 9, Chapter 8, Article 1, were last revised, several statutory changes have been made to Arizona Revised Statutes (A.R.S.) § 36-136 that affect these rules. Laws 2006, Ch. 272, § 1 requires the Department to adopt rules that provide an exemption from the requirements in 9 A.A.C. 8, Article 1 for food and drink that is served at a noncommercial social event that takes place at a workplace, is prepared at a cooking school that is conducted in an owner-occupied home, is not potentially hazardous, or is prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled. Laws 2006, Ch. 272, § 1 also specifies the conditions under which "a kitchen in a private home that is used as a cooking school and that prepares and offers food to students" is exempt from the requirements in 9 A.A.C. 8, Article 1 until the Department adopts rules providing an exemption. Laws 2008, Ch. 149, § 1 requires the Department to adopt rules that clarify that food and drink that is not potentially hazardous and is prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes is not subject to the requirements in 9 A.A.C. 8, Article 1. Laws 2008, Ch. 149, § 1 adds to the food and drink that is to be exempted by rule "commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut onsite for immediate consumption" offered at a child care facility and "commercially prepackaged food and drink that is not potentially hazardous and that is displayed in an area of less than 10 lineal feet." Laws 2011, Ch. 84, § 1 requires the Department to add baked and confectionary goods "that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes" to the list of food or drink to be exempted by rule from the requirements in 9 A.A.C. 8, Article 1 if specific conditions are met. The Department received an exception from the Governor's rulemaking moratorium, established by Executive Order 2011-005, and is proposing to amend the rules in 9 A.A.C. 8, Article 1, to implement these statutory changes. The proposed amendments will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review or rely on any study related to this rulemaking package.

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

As used in this summary, annual costs/revenues are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000. Costs are listed as significant when meaningful or important, but not readily subject to quantification. Only the economic, small business, and consumer impact directly attributable to this rulemaking, rather than the impact imposed by the statute or resulting from improved implementation of other rules in the Article is considered.

The Department believes that the proposed rules may provide a significant benefit to the Department and county sanitarians by improving the ability of Department and county sanitarians to effectively implement A.R.S. § 36-136(H)(4). By clarifying the applicability of the rules in 9 A.A.C. 8, Article 1, the proposed rules may provide a significant benefit to regulated food establishments; persons providing food or drink that is exempt under A.R.S. § 36-136 (H)(4)(a), (c), (d), (e), or (f); and individuals who prepare baked or confectionary goods for commercial purposes in a private home. In addition, persons providing food or drink that is exempt under A.R.S. § 36-136(H)(4)(a), (c), (d), (e), or (f) and individuals who prepare baked or confectionary goods for commercial purposes in a private home may receive a minimal-to-substantial benefit from the proposed rules through saving the expense of applying for a food establishment license or permit and ensuring compliance of their kitchens with requirements in 9 A.A.C. 8, Article 1. Individuals obtaining food or drink affected by the rule change may receive a significant benefit from the notification requirements in the proposed rules and the listing of other exempt food or drink.

Owners or operators of cooking schools are not considered to be affected by the rulemaking since Laws 2006, Ch. 272, § 1 already provides an exemption from the requirements in 9 A.A.C. 8, Article 1 if specified conditions are met.

The Department has determined that the benefits outweigh any potential costs associated with this rulemaking.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Diane Eckles, Office Chief
Address: Department of Health Services
Office of Environmental Health
150 N. 18th Ave., Suite 140
Phoenix, AZ 85007
Telephone: (602) 364-3142
Fax: (602) 364-3146

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E-mail: Diane.Eckles@azdhs.gov
or
Name: Thomas Salow, Manager
Address: Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams St., Suite 203
Phoenix, AZ 85007
Telephone: (602) 542-1020
Fax: (602) 364-1150
E-mail: Thomas.Salow@azdhs.gov

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

The Department has scheduled the following oral proceeding:

Date and time: September 23, 2011 at 1:00 p.m.

Location: 150 N. 18th Ave., Room 540A
Phoenix, AZ 85007

Close of record: 4:00 p.m., September 23, 2011

A person may submit written comments on the proposed rules no later than the close of record to either of the individuals listed in items 4 and 9.

A person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Thomas Salow at Thomas.Salow@azdhs.gov or (602) 542-1020. Requests should be made as early as possible to allow time to arrange the accommodation.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rule:

Not applicable

13. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION**

ARTICLE 1. FOOD AND DRINK

Section

R9-8-101. Definitions

R9-8-102. Applicability

ARTICLE 1. FOOD AND DRINK

R9-8-101. Definitions

In addition to the terms defined in the material incorporated by reference in R9-8-107, which are designated by all capital letters, the following definitions apply in this Article, unless otherwise specified:

1. "Agency" means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
2. "Applicant" means the following PERSON requesting a LICENSE:
 - a. If an individual, the individual who owns the FOOD ESTABLISHMENT;
 - b. If a corporation, any officer of the corporation;
 - c. If a limited liability company, the designated manager or, if no manager is designated, any member of the limited liability company;
 - d. If a partnership, any two of the partners;

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- e. If a joint venture, any two individuals who signed the joint venture agreement;
 - f. If a trust, the trustee of the trust;
 - g. If a religious or nonprofit organization, the individual in the senior leadership position within the organization.
 - h. If a school district, the superintendent of the district;
 - i. If an agency, the individual in the senior leadership position within the agency; or
 - j. If a county, municipality, or other political subdivision of the state, the individual in the senior leadership position within the county, municipality, or political subdivision.
3. "Department" means the Arizona Department of Health Services.
4. "Developmental disability" means the same as in A.R.S. § 36-551.
- ~~4-5.~~ "FC" means the United States Food and Drug Administration publication, Food Code: 1999 Recommendations of the United States Public Health Service, Food and Drug Administration (1999), as modified and incorporated by reference in R9-8-107.
- ~~5-6.~~ "Incongruous" means inconsistent with the inspection reports of other inspectors or the REGULATORY AUTHORITY as a whole because significantly more or fewer violations of individual CRITICAL ITEMS are documented.
- ~~6-7.~~ "Prepare" means to process commercially for human consumption by manufacturing, packaging, labeling, cooking, or assembling.
- ~~7-8.~~ "Public health control" means a method to prevent transmission of foodborne illness to the CONSUMER.
- ~~8-9.~~ "Remodel" means to change the PHYSICAL FACILITIES or PLUMBING FIXTURES in a FOOD ESTABLISHMENT'S FOOD preparation, storage, or cleaning areas through construction, replacement, or relocation, but does not include the replacement of old EQUIPMENT with new EQUIPMENT of the same type.
- ~~9-10.~~ "Requester" means a PERSON who requests an approval from the REGULATORY AUTHORITY, but who is not an applicant or a LICENSE HOLDER.

R9-8-102. Applicability

A. Except as provided in subsection (B), this Article applies to any FOOD ESTABLISHMENT.

B. This Article does not apply to the following:

- 1. The beneficial ~~Beneficial~~ use of wildlife meat authorized in A.R.S. § 17-240 and 12 A.A.C. 4, Article 1;
- 2. Group homes, as defined in A.R.S. Title 36, Chapter 5.1, Article 1;
- 3. Child care group homes, as defined in A.R.S. Title 36, Chapter 7.1, Article 4;
- 4. Residential group care facilities, as defined in 6 A.A.C. 5, Article 74, that have 20 or fewer clients;
- 5. Assisted living homes, as defined in 9 A.A.C. 10, Article 7;
- 6. Adult day health care services, as defined in 9 A.A.C. 10, Article 7, that have 15 or fewer clients;
- 7. Behavioral health service agencies, licensed under 9 A.A.C. 20, that provide residential or partial care services for 10 or fewer clients; and
- 8. Hospice inpatient facilities, licensed under 9 A.A.C. 10, Article 8, that have 20 or fewer patients;
- 9. Food or drink that is:
 - a. Served at a noncommercial social event that takes place at a workplace, such as a potluck;
 - b. Prepared at a cooking school if:
 - i. The cooking school is conducted in the kitchen of an owner-occupied home,
 - ii. Only one meal per day is prepared and served by students of the cooking school,
 - iii. The meal prepared at the cooking school is served to not more than 15 students of the cooking school, and
 - iv. The students of the cooking school are provided with written notice that the food is prepared in a kitchen that is not regulated or inspected by a REGULATORY AUTHORITY;
 - c. Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for non-commercial purposes;
 - d. Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising, or an employee social event;
 - e. Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut onsite for immediate consumption; or
 - f. Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous and that is displayed in an area of less than 10 linear feet; and
- 10. Baked or confectionary goods that are:
 - a. Not potentially hazardous;
 - b. Prepared in the kitchen of a private home for commercial purposes by or under the supervision of an individual, who is registered with the Department, as required in A.R.S. § 36-136(H)(4)(g); and
 - c. Labeled with:
 - i. The name, address, and telephone number of the individual registered with the Department;
 - ii. A list of the ingredients in the baked or confectionary goods;
 - iii. A statement that the baked or confectionary goods are prepared in a private home; and

- iv. If applicable, a statement that the baked or confectionary goods are prepared in a facility for individuals with developmental disabilities.
- C. A kitchen in a private home in which baked or confectionary goods are prepared that meets the requirements in A.R.S. § 36-136(H)(4)(g) and (H)(13) and subsection (B)(10) is an approved source of baked or confectionary goods for retail sale.

NOTICE OF PROPOSED RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 5. CORPORATION COMMISSION TRANSPORTATION

Editor's Note: The following Notice of Proposed Rulemaking was exempt from Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 164I.)

[R11-107]

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R14-5-202 | Amend |
| R14-5-203 | Amend |
| R14-5-204 | Amend |
| R14-5-205 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. §§ 40-202, 40-203, 40-321, 40-441 and 40-442 et seq.
Constitutional authority: Arizona Constitution, Article XV
Implementing statute: Arizona Constitution Article XV § 3; A.R.S. §§ 40-202, 40-203, 40-321, 40-322, 40-281, 40-282
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 17 A.A.R. 1640, August 19, 2011 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Charles Hains, Commission Counsel, Legal Division
Address: Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 542-3402
Fax: (602) 542-4870
E-mail: Chains@azcc.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Commission is proposing amendments to transportation rules R14-5-202, R14-5-203, R14-5-204 and R14-5-205. The amendments will update the rules to incorporate the most recent amendments to the *Code of Federal Regulations* (CFR), Title 49, Parts 40, 191, 192, except I (2) and (3) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2),(3) and (4)) and 199 revised as of October 1, 2010.
- 6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
The Commission believes that by incorporating by reference 49 CFR 40, 191, 192, except I (2) and (3) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2), (3) and (4)) and 199 revised as of October 1, 2010, the rules will be con-

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sistent with the current best practices and will enhance public safety which is in the best interest of all citizens in the state of Arizona.

8. The preliminary summary of the economic, small business, and consumer impact:

NOTE – The Arizona Corporation Commission is exempt from the requirements of A.R.S. § 41-1055 relating to economic, small business, and consumer impact statements. See A.R.S. § 41-1057(2). However, under A.R.S. § 41-1057(2), the Arizona Corporation Commission is required to prepare a “substantially similar” statement.

Small business Subject to the Rules: There will be no impact on master meter system operators if they are already complying with current Federal Pipeline Safety Regulations. There will be a minimum to moderate impact on operators of natural gas or other gas systems if they are already complying with current Federal Pipeline Safety Regulations. Lastly, there will be no impact on operators of hazardous liquid pipelines if they are already complying with current Federal Pipeline Safety Regulations.

The proposed amendments to the existing rules should have a minimal impact on consumers or users of the gas service provided by regulated public utilities. As major utilities such as Southwest Gas come to the Commission for future rate cases, they will include some increased costs due to complying with the new federal regulations. It is impossible to forecast the exact impact on final rates of any one issue at this time. The utilities are presently required to be in compliance with all standards but the new regulations will benefit consumers, users and the general public by enhancing the safe operation and maintenance of pipeline systems.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Robert E. Miller, Supervisor, Office of Pipeline Safety

Address: Arizona Corporation Commission
2200 W. Washington St., Suite 300
Phoenix, AZ 85004

Telephone: (602) 262-5601

Fax: (602) 262-5620

E-mail: RMiller@azcc.gov

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Public comment will be held on September 19, 2011, beginning at 2:00 p.m. or as soon as practicable thereafter in Hearing Room 1 at the Commission’s Phoenix offices of the Arizona Corporation Commission located at 1200 W. Washington St., Phoenix, AZ 85007. Written comments can be submitted on or before September 19, 2011. Comments should be submitted to Docket Control at the above address. Please reference docket number RG-00000A-11-0161 on all documents. Oral comments may be provided at the proceeding to be held on September 19, 2011.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

1. American Society for Testing Materials (ASTM); R14-5-201(28); R14-5-202(P); R14-5-207(I).
2. Title 49, Code of Federal Regulations (CFR), Parts 40, 191, 192, except I(2) and (3) of Appendix D to Parts 192, 193, 195 (except 195.1(b)(2), (3) and (4)) and 199; R14-5-202(B)(J); R14-5-203(B)(2)(f)(ii); R14-5-203(C)(3)(c)(ii); R14-5-207(C).
3. National Association of Corrosion Engineers (NACE) Standard MR0175 (1999 Revision); (and no future revisions), Standard Materials Requirements-Sulfide Stress Cracking Resistant Metallic Material for Oilfield Equipment; R14-5-202(E)(1).
4. API RP55 (1995 Edition); (and no future amendments), API recommended practice for conducting oil and gas production operations involving hydrogen sulfide; R14-5-202(E)(2).
5. American Society of Mechanical Engineers (ASME) Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 except 4.4(c) (1983 Revision and no future revisions); R14-5-202(R); R14-5-207(O)(2).
6. Pipeline and Hazardous Materials Safety Administration; PHMSA F7100.1 - Distribution System: Incident Report, January, 2010 Revision and no future revisions); R14-5-203(C)(2)(a); PHMSA F7100.2 - Transmission and Gathering System: Incident Report, (January, 2010 Revision and no future revisions); R14-5-203(C)(2)(b); PHMSA F7100.3 – Liquefied Natural Gas (LNG) Facilities: Incident Report, (November 2010); PHMSA F7000-1, (January 2010 Revision and no future revisions); R14-5-203(C)(3); PHMSA F 7000-1.1 (June 2011 Edition and no future editions); R14-5-204(A)(1); PHMSA F7100.1-1 (January 2011 Edition and no future editions);

R14-5-204(A)(2); PHMSA F7100.2-1 (June 2011 Edition and no future editions); R14-5-204(A)(3); PHMSA F7100.3-1 (November 2010 Edition and no future editions); R14-5-204(A)(4).

7. Arizona Corporation Commission, Master Meter Annual Report Form, MM-04 (2011); R14-5-207(R).

13. The full text of the rules follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

**CHAPTER 5. CORPORATION COMMISSION
TRANSPORTATION**

ARTICLE 2. PIPELINE SAFETY

Section

- R14-5-202. Construction and Safety Standards
R14-5-203. Pipeline Incident Reports and Investigations
R14-5-204. Annual Reports
R14-5-205. Master Meter System Operators

ARTICLE 2. PIPELINE SAFETY

R14-5-202. Construction and Safety Standards

- A. Applicability: This rule applies to the construction, reconstruction, repair, operation and maintenance of all intrastate natural gas, other gas, LNG and hazardous liquid pipeline systems, as described in A.R.S. § 40-441.
- B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 40, 191, 192 except I (2) and (3) of Appendix D to Part 192, 193, 195, except 195.1(b)(2), and (3), and 199, revised as of ~~August 1, 2006~~ October 1, 2010 (and no future amendments), incorporated by reference and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004 and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954.
- C. The above mentioned incorporated Parts of 49 CFR, except Parts 191, 193 Subpart A and 195 Subpart A and B, are revised as follows:
1. Substitute "Commission" where "Administrator of the Research and Special Programs Administration" or "Office of Pipeline Safety" (OPS) appear.
 2. Substitute "Office of Pipeline Safety, Arizona Corporation Commission, at its office in Phoenix, Arizona" where the address for the ~~Information Resources Manager~~, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation appears.
- D. Operators of an intrastate pipeline will file with the Commission an Operation and Maintenance Plan (O & M), including an emergency plan, 30 days prior to placing a pipeline system into operation. Any changes in existing plans will be filed within 30 days of the effective date of the change.
- E. Operators of an intrastate pipeline transporting sour gas or oil are subject to industry standards addressing facilities handling hydrogen sulfide (H₂S). Standards adopted are:
1. NACE Standard ~~MR-0175-99 (1999 Revision); (and no future revisions)~~ MR0175, Standard Materials Requirements-Sulfide Stress Cracking Resistant Metallic Material for Oilfield Equipment, incorporated by reference and no future amendments. Copies are available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004 and the NACE International, 1440 S. Creek Dr., Houston, TX 77084-4906.
 2. API RP55 (1995 Edition); (and no future amendments), API recommended practice for conducting oil and gas production operations involving hydrogen sulfide, incorporated by reference and no future amendments. Copies are available from the ~~Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004~~ American Petroleum Institute, 1200 L Street, NW, Washington, DC 2005-4070 and Techstreet, ~~777 E. Eisenhower Pkwy., Ann Arbor, MI 48108~~ <http://www.techstreet.com/>.
- F. Operators of an intrastate pipeline transporting LNG, hazardous liquid, natural gas or other gas will not construct any part of a hazardous liquid, LNG, natural gas or other gas pipeline system under a building. For building encroachments over a pipeline system, the operator may require the property owner to remove the building from over the pipeline or reimburse the operator the cost associated with relocating the pipeline system. The encroachment shall be resolved within 180 days of discovery, or the operator shall discontinue service to the pipeline system. When the encroachment cannot be resolved within the 180 days the operator shall submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment.

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- G. Operators of an intrastate distribution pipeline transporting natural gas or other gas will not construct any part of a pipeline system closer than 8 inches to any other underground structure. If the 8-inch clearance cannot be maintained from other underground structures, a sleeve, casing, or shielding shall be used.
- H. Operators of an intrastate pipeline transporting natural gas or other gas that have regulators, meters, or regulation meter sets that have been out of service for 36 months will abandon those lines and cap all ends. The Operator's steps to accomplish the abandonment shall not exceed six months beyond the 36 months out service status.
- I. Operators of an intrastate pipeline shall not install or operate a gas regulator that might release gas in its operation closer than ~~three~~ 3 feet to a source of ignition, opening into a building, air intake into a building or to any electrical source not intrinsically safe. The ~~three~~ 3 foot clearance from a source of ignition will be measured from the vent or source of release (discharge port), not from the physical location of the meter set assembly. This subsection shall not be effective with respect to building permits which are issued and subdivisions which are platted prior to October 1, 2000. For encroachment within the required ~~three~~ 3 foot clearance caused by an action of the property owner, occupant or a service provider, after the effective date of this rule the operator may require the property owner to resolve the encroachment or reimburse the operator the cost associated with relocating the pipeline system. The encroachment shall be resolved within 180 days of discovery or the operator shall discontinue service to the effected pipeline system. When the encroachment cannot be resolved within the 180 days the operator shall submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment.
- J. Operators of an intrastate pipeline transporting LNG, natural gas, other gases or hazardous liquid will utilize a cathodic protection system designed to protect the metallic pipeline in its entirety, in accordance with 49 CFR 192, Subpart I, ~~August 1, 2006~~ October 1, 2010 (and no future amendments), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004, and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954, except I (2) and (3) of Appendix D to Part 192 shall not be utilized.
- K. Operators of an intrastate pipeline transporting natural gas or other gas will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, ~~August 1, 2006~~ October 1, 2010 (and no future amendments), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004, and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954.
- L. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas will not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in their pipeline systems.
- M. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas will not install plastic pipe aboveground unless the plastic pipeline is protected by a metal casing, or equivalent, and approved by the Office of Pipeline Safety. Temporary aboveground plastic pipeline bypasses are permitted for up to 60 days, provided that the plastic pipeline is protected and is under the direct supervision of the operator at all times.
- N. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas that construct a pipeline system or any portion thereof using plastic pipe, will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe, tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.
- O. Operators of an intrastate pipeline transporting natural gas, other gas or hazardous liquid, that construct an underground pipeline system using plastic pipe, will bury the installed pipe with a minimum of 6 inches of sandy type soil surrounding the pipe for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety. Steel pipe shall be installed with bedding and shading, free of any debris or materials injurious to the pipe coating, unless otherwise protected and approved by the Office of Pipeline Safety.
- P. Operators of an intrastate pipeline transporting natural gas or other gas that construct an underground pipeline system using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe and fittings shall be tested and marked CD, CE, CF or CG as required by ASTM D2513 (1995c Edition and no future editions), incorporated by reference, and copies available from ASTM International, 100 Barr Harbor Dr., P.O. Box C700, W. Conshohocken, PA 19428-2959, for areas where the service temperature is above 100° F.
- Q. Operators of an intrastate pipeline system transporting hazardous liquid, natural gas or other gases shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104, 49 CFR 192, ~~appendix A 192.7~~. The qualification of welders delineated in 49 CFR 192, appendix C may be used for low stress level pipe.
- R. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system shall survey and grade all detected leakage by the following guide: ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 except 4.4(c) (1983 Revision and no future revisions), incorporated by reference and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004 and the ~~ASME, United Engineering Center, 345 E. 47th St., New York, NY 10017~~ ASME, Three Park Avenue, New York, NY 10016-5990. ("Should" as referenced in the Guide will be interpreted to mean "shall"). Leakage survey records shall identify in some manner each

pipeline surveyed. Records shall be maintained to demonstrate that the required leakage survey has been conducted.

- S. Laboratory testing of intrastate pipelines shall be conducted in accordance with the following:
1. If an operator of an intrastate natural gas, other gas, or hazardous liquid pipeline removes a portion of a failed pipeline, where the cause of the failure is unknown, as the result of an incident that requires a telephonic or written incident report under R14-5-203(B) or (C), the operator shall retain the portion that was removed and shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed. A notice made pursuant to this subsection shall include all of the following:
 - a. Identity of the failed pipeline,
 - b. Description and location of the failure,
 - c. Date and time of the removal,
 - d. Length or quantity of the removed portion,
 - e. Storage location of the removed portion,
 - f. Any additional information about the failure or the removal of the portion of the pipeline that failed that is requested by the Office of Pipeline Safety. An unknown failure is any failure where the cause of the failure is not observable external corrosion, third-party damage, natural or other outside forces, construction or material defect, equipment malfunction or incorrect operations; or is any failure where the Office of Pipeline Safety and the operator do not agree as to the cause of the failure.
 2. Within 48 hours after telephonic notification pursuant to subsection (1), the Office of Pipeline Safety shall notify the operator that either:
 - a. The Office of Pipeline Safety is directing the operator to have the portion of the pipeline that was removed tested by a laboratory to determine the cause or causes of the failure; or
 - b. The Office of Pipeline Safety is not directing laboratory testing and the operator may discard the portion of the pipeline that was removed;
 - c. The Office of Pipeline Safety shall confirm its notification in writing.
 3. If the Office of Pipeline Safety directs laboratory testing pursuant to subsection (2)(a):
 - a. The Office of Pipeline Safety shall:
 - i. Determine the laboratory that will do the testing pursuant to subsection (4) and the period of time within which the testing is to be completed.
 - ii. Approve the number and types of tests to be performed.
 - iii. Notify the operator of its determinations pursuant to subsections (3)(a)(i) and (ii).
 - b. The operator shall:
 - i. Notify the Office of Pipeline Safety of the number and types of tests proposed by the operator.
 - ii. Notify the Office of Pipeline Safety of the date and time of any laboratory tests at least 20 days before the tests are done.
 - iii. At the request of the Office of Pipeline Safety, ensure that a representative of the Office of Pipeline Safety is permitted to observe any or all of the tests.
 - iv. Ensure that the original laboratory test results are provided to the Office of Pipeline Safety within 30 days of the completion of the tests.
 - v. Pay for the laboratory testing.
 4. In determining a laboratory pursuant to subsection (3)(a)(i), the Office of Pipeline Safety shall:
 - a. Submit a written request to at least three different laboratories for bids to conduct the testing.
 - b. Consider the qualifications of the respondent laboratories to perform the testing, including:
 - i. Past experience in performing the required test or tests according to ASTM International standards.
 - ii. Any recognition that the laboratory may demonstrate with national or international laboratory accreditation bodies.
 - c. Select the laboratory that offers the optimum balance between cost and demonstrated ability to perform the required test or tests.
 - d. The Office of Pipeline Safety shall not select a laboratory pursuant to this subsection before either of the following, whichever occurs first:
 - i. The Office of Pipeline Safety has received written bids from at least three different laboratories.
 - ii. Thirty days from the date of the request for bids has passed.
- T. All repair work performed on an existing intrastate pipeline transporting LNG, hazardous liquids, natural gas or other gas will comply with the provisions of this Article.
- U. The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public and pipeline safety.
- V. To ensure compliance with provisions of this rule the Commission or an authorized representative thereof may enter the premises of an operator of an intrastate pipeline to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the pipeline system operation.
- W. All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provi-

sions of this Article.

R14-5-203. Pipeline Incident Reports and Investigations

A. Applicability. This rule applies to all intrastate pipeline systems.

B. Required incident reports by telephone:

1. Operators of an intrastate pipeline transporting LNG, natural gas or other gas will notify by telephone the Office of Pipeline Safety immediately upon discovery of the occurrence of any of the following:
 - a. The release of natural gas, other gas or liquefied natural gas (LNG) from a pipeline or LNG facility, when any of the following results:
 - i. Death or personal injury requiring hospitalization.
 - ii. An explosion or fire not intentionally set by the operator.
 - iii. Property damage, including the value of the gas lost, estimated in excess of \$5,000.
 - b. Emergency transmission pipeline shutdown.
 - c. News media inquiry.
 - d. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.
 - e. Permanent or temporary discontinuance of gas service to a master meter system or when assisting with the isolation of any portion of a gas master meter system due to a failure of a leak test.
 - f. Emergency shutdown of a LNG process or storage facility.
2. Operators of an intrastate pipeline transporting hazardous liquid will notify by telephone the Office of Pipeline Safety immediately upon discovery of the occurrence of any of the following:
 - a. Death or personal injury requiring hospitalization.
 - b. An explosion or fire not intentionally set by the operator.
 - c. Property damage estimated in excess of \$5,000.
 - d. Pollution of any land, stream, river, lake, reservoir, or other body of water that violates applicable environmental quality, water quality standards, causes a discoloration of the surface of the water or adjoining shoreline, or deposits sludge or emulsion beneath the surface of the water or upon adjoining shorelines.
 - e. News media inquiry.
 - f. Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:
 - i. Not otherwise reportable under this Section;
 - ii. Not one described in 49 CFR 195.52(a)(4) (1994 2010 revision and no future revisions), incorporated by reference and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004;
 - iii. Confined to company property or pipeline right-of-way; and
 - iv. Cleaned up promptly.
 - g. Any release of hazardous liquid or carbon dioxide, that was significant in the judgment of the operator even though it did not meet the criteria of this subsection.
3. Telephone incident reports will include the following information:
 - a. Name of the pipeline system operator,
 - b. Name of the reporting party,
 - c. Job title of the reporting party,
 - d. The reporting party's telephone number,
 - e. Location of the incident,
 - f. Time of the incident, and
 - g. Fatalities and injuries, if any.

C. Require written incident report:

1. Operators of an intrastate pipeline transporting natural gas, LNG or other gases will file a written incident report when an incident occurs involving a natural gas or other gas pipeline that results in any of the following:
 - a. An explosion or fire not intentionally set by the operator.
 - b. Injury to a person that results in one or more of the following:
 - i. Death.
 - ii. Loss of consciousness.
 - iii. Need for medical treatment requiring hospitalization.
 - c. Property damage, including the value of the lost gas, estimated in excess of \$5,000.
 - d. Emergency transmission pipeline shutdown.
 - e. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%,

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where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.

- f. Emergency shutdown of a LNG process or storage facility.
2. Written incident reports concerning natural gas or other gas pipeline systems will be in the following form:
 - a. PHMSA F7100.1 - Distribution System: Incident Report, (~~March, 2004~~ January, 2010 Revision and no future revisions) incorporated by reference and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004.
 - b. PHMSA F7100.2 - Transmission and Gathering System: Incident Report, (January, ~~2002~~ 2010 Revision and no future revisions) incorporated by reference and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004.
 - c. Written incident reports with respect to LNG facilities will be in an investigative form defining the incident and corrective action taken to prevent a reoccurrence.
3. Operators of an intrastate pipeline transporting hazardous liquid will make a written incident report on PHMSA F 7000-1, (January ~~2001~~ 2010 Revision and no future revisions), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004, when there is a release of hazardous liquid which results in any of the following:
 - a. An explosion or fire not intentionally set by the operator.
 - b. Injury to a person that results in one or more of the following:
 - i. Death.
 - ii. Loss of consciousness.
 - iii. Inability to leave the scene of the incident unassisted.
 - iv. Need for medical treatment.
 - v. Disability which interferes with a person's normal daily activities beyond the date of the incident.
 - c. Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:
 - i. Not otherwise reportable under this Section;
 - ii. Not one described in 49 CFR 195.52(a)(4); (~~1994~~ 2010 revision and no future revisions), incorporated by reference and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004;
 - iii. Confined to company property or pipeline right-of-way; and
 - iv. Cleaned up promptly.
 - d. Estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$5,000.
 - e. News media inquiry.
4. Written incident reports as required in this Section will be filed with the Office of Pipeline Safety, within the time specified below:
 - a. Natural gas, LNG or other gas - within 20 days after detection.
 - b. Hazardous liquids - within 15 days after detection.
5. The Operators shall also file a copy of all DOT required written incident reports electronically with the ~~Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, Rm. 7128, 400 Seventh St., S.W., U.S. Department of Transportation,~~ at <http://opsweb.phmsa.dot.gov/> or submit a written request for an alternative reporting method to the Information Resource Manager, office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, PHP-20 1200 New Jersey Avenue, SE, Washington, DC 20590.
6. Operators of a natural gas or other gas pipeline system will request a clearance from the Office of Pipeline Safety prior to turning on or reinstating service to a master meter operator.

D. Investigations by the Commission:

1. The Office of Pipeline Safety will investigate the cause of incidents resulting in death or serious injury.
2. Pursuant to an investigation under this rule, the Commission, or an authorized agent thereof, may:
 - a. Inspect all plant and facilities of a pipeline system.
 - b. Inspect all other property, books, papers, business methods, and affairs of a pipeline system.
 - c. Make inquiries and interview persons having knowledge of facts surrounding an incident.
 - d. Attend, as an observer, hearings and formal investigations concerning pipeline system operators.
 - e. Schedule and conduct a public hearing into an incident.
3. The Commission may issue subpoenas to compel the production of records and the taking of testimony.
4. Incidents not reported in accordance with the provisions of this rule will be investigated by the Office of Pipeline Safety.
5. Incidents referred to in incomplete or inaccurate reports will be investigated by the Office of Pipeline Safety.
6. Late filed incident reports will be accompanied by a letter of explanation. Incidents referred to in late filed reports

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may be investigated by the Office of Pipeline Safety.

R14-5-204. Annual Reports

- A. ~~Except for operators of an intrastate pipeline transporting LNG, all other~~ All intrastate pipeline operators will file with the Office of Pipeline Safety, not later than March 15, for the preceding calendar year, the following appropriate report(s):
1. PHMSA F 7000-1.1 (~~April 2006~~ June 2011 Edition and no future editions) – “Annual Report for calendar year 20___, hazardous liquid or carbon dioxide systems” and “Instructions for completing PHMSA F 7000-1.1 (Rev. ~~04-2006-01-2011~~), Annual Report for calendar year 20___ hazardous liquid or carbon dioxide systems,” incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004 and the ~~Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, at http://opsweb.phmsa.dot.gov/. U.S. Department of Transportation, Rm. 7128, 400 Seventh St., S.W., Washington, DC 20590.~~
 2. PHMSA F7100.1-1 (~~December 2005~~ January 2011 Edition and no future editions) - “Annual Report for Calendar Year 20___, Gas Distribution System” and “Instructions for Completing PHMSA Form F7100.1-1, Annual Report for Calendar Year 20___, Gas Distribution System,” incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004 and the ~~Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, at http://opsweb.phmsa.dot.gov/. U.S. Department of Transportation, Rm. 7128, 400 Seventh St., S.W., Washington, D.C. 20590.~~
 3. PHMSA F7100.2-1 (~~December 2005~~ June 2011 Edition and no future editions) - “Annual Report for Calendar Year 20___, Gas Transmission and Gathering Systems” and “Instructions for Completing Form PHMSA F7100.2-1 (Rev. 12-2005), Annual Report for Calendar Year 20___, Gas Transmission and Gathering Systems,” incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004 and the ~~Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, at http://opsweb.phmsa.dot.gov/. U.S. Department of Transportation, Rm. 7128, 400 Seventh St., S.W., Washington, D.C. 20590.~~
 4. PHMSA F7100.31 (November 2010 Edition and no future editions) – “Annual Report for Calendar Year 20___, Liquefied Natural Gas (LNG) Facilities,” and “Instructions for Completing Form F7100.3-1 (10-2010), Annual Report for Calendar Year 20___, Liquefied Natural Gas (LNG) Facilities,” incorporated by reference and copies available from the Office of Pipeline Safety, 2200 N. Central Avenue, Suite 300, Phoenix, AZ 85004 and the Pipeline and Hazardous Materials Safety Administration, at <http://opsweb.phmsa.dot.gov/>.
- B. The operator will also file a copy of all required annual reports by March 15 to the ~~Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, at http://opsweb.phmsa.dot.gov/. U.S. Department of Transportation, Rm. 7128, 400 Seventh St., S.W., Washington, D.C. 20590-0001.~~

R14-5-205. Master Meter System Operators

- A. Applicability. This rule applies to the construction, reconstruction, repair, emergency procedures, operation and maintenance of all master meter systems, as a condition of receiving service from public service corporations. Noncompliance with this rule by operators of a master meter system shall constitute grounds for termination of service. by the public service corporation when informed in writing by the Office of Pipeline Safety. In case of an emergency, the Office of Pipeline Safety may give the public service corporation oral instructions to terminate service, with written confirmation to be furnished within 24 hours.
- B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 191 and 192, revised as of ~~August 1, 2006~~ October 1, 2010 (and no future amendments), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004 and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954.
- C. The above mentioned incorporated parts of 49 CFR, except Part 191, are revised as follows:
1. Substitute “Commission” where “~~Administrator of the Research and Special Programs Administration,~~” or “Office of Pipeline Safety” (OPS) ~~appear~~ appears.
 2. Substitute Office of “Pipeline Safety, Arizona Corporation Commission, at its office in Phoenix, Arizona” where the address for the ~~Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation~~ appears.
- D. Operators of a master meter system will establish an Operation and Maintenance Plan (O & M) including an emergency plan. The plans must be maintained at the master meter system location.
- E. Operators of a master meter system will not construct any part of a natural gas or other gas system under a building or permit a building to be placed over a pipeline. Within 180 days of discovery of a building being located over a pipeline, the operator shall remove the building from over the pipeline, relocate the pipeline or discontinue the service to the pipeline located under the building.
- F. Operators of a master meter system will not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in their sys-

tems.

- G. Operators of a master meter system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, ~~August 1, 2006~~ October 1, 2010 (and no future amendments), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004 and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954.
- H. Operators of a master meter system that construct a pipeline or any portion thereof using plastic pipe will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe, tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.
- I. Operators of a master meter system that construct an underground pipeline using plastic pipe, will bury the installed pipe with a minimum of 6 inches of sandy type soil surrounding the pipe for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety. Steel pipe shall be installed with bedding and shading, free of any debris or materials injurious to the pipe coating, unless otherwise protected and approved by the Office of Pipeline Safety.
- J. Operators of a master meter system that construct an underground pipeline using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe and fittings shall be marked CD, CE, CF or CG as required by ASTM D2513 (1995c Edition and no future editions), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004 and ASTM International, 100 Barr Harbor Dr., P.O. Box C700, W. Conshohocken, PA 19428-2959, for areas where the service temperature is above 100° F.
- K. Operators of a master meter gas system shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104, 49 CFR 192, ~~appendix A~~ 192.7.
- L. All repair work performed on existing master meter systems will comply with the provisions of this Article.
- M. Operators of a master meter system will not construct any part of a natural gas or other gas system closer than 8 inches to any other underground structure.
- N. Operators of a master meter system will file a Notice of Construction 30 days prior to commencement of the construction of any pipeline. The Notice will contain the following information:
1. The dates of construction,
 2. The size and type of pipe to be used,
 3. The location of construction, and
 4. The Maximum Allowable Operating Pressure (MAOP).
- O. Operators of a master meter system will perform leakage surveys at intervals not exceeding 15 months but at least once each calendar year and will survey and grade all detected leakage by the following guide -- ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 (1983 Revision and no future revisions), except 4.4(c), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004 and the ~~ASME, United Engineering Center, 345 E. 47th St., New York, NY 10017~~ ASME, Three Park Avenue, New York, NY 10016-5990. ("Should" as referenced in the guide will be interpreted to mean "shall".) Leak detection procedures shall be approved by the Office of Pipeline Safety.
- P. Laboratory testing of master meter systems shall be conducted in accordance with the following:
1. If an operator of a master meter system, other gas or hazardous liquid pipeline removes a portion of a failed pipeline, where the cause of the failure is unknown, as the result of an incident that requires a telephonic or written incident report under R14-5-203(B) or (C), the operator shall retain the portion that was removed and shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed. A notice made pursuant to this subsection shall include all of the following:
 - a. Identity of the failed pipeline;
 - b. Description and location of the failure;
 - c. Date and time of the removal;
 - d. Length or quantity of the removed portion;
 - e. Storage location of the removed portion;
 - f. Any additional information about the failure or the removal of the portion of the pipeline that failed that is requested by the Office of Pipeline Safety;
 - g. An unknown failure is any failure where:
 - i. ~~the~~ The cause of the failure is not observable external corrosion, third-party damage, natural or other outside forces, construction or material defect, equipment malfunction or incorrect operations; or
 - ii. ~~is~~ Is any failure where the Office of Pipeline Safety and the operator do not agree as to the cause of the failure.
 2. Within 48 hours after telephonic notification pursuant to subsection (1), the Office of Pipeline Safety shall notify the

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operator that either:

- a. The Office of Pipeline Safety is directing the operator to have the portion of the pipeline that was removed tested by a laboratory to determine the cause or causes of the failure.
- b. The Office of Pipeline Safety is not directing laboratory testing and the operator may discard the portion of the pipeline that was removed.
- c. The Office of Pipeline Safety shall confirm its notification in writing.

3. If the Office of Pipeline Safety directs laboratory testing pursuant to subsection (2)(a):

- a. The Office of Pipeline Safety shall:
 - i. Determine the laboratory that will do the testing pursuant to subsection (4) and the period of time within which the testing is to be completed.
 - ii. Approve the number and types of tests to be performed.
 - iii. Notify the operator of its determinations pursuant to subsections (3)(a)(i) and (ii).
- b. The operator shall:
 - i. Notify the Office of Pipeline Safety of the number and types of tests proposed by the operator.
 - ii. Notify the Office of Pipeline Safety of the date and time of any laboratory tests at least 20 days before the tests are done.
 - iii. At the request of the Office of Pipeline Safety, ensure that a representative of the Office of Pipeline Safety is permitted to observe any or all of the tests.
 - iv. Ensure that the original laboratory test results are provided to the Office of Pipeline Safety within 30 days of the completion of the tests.
 - v. Pay for the laboratory testing.

4. In determining a laboratory pursuant to subsection (3)(a)(i), the Office of Pipeline Safety shall:

- a. Submit a written request to at least three different laboratories for bids to conduct the testing.
- b. Consider the qualifications of the respondent laboratories to perform the testing, including:
 - i. Past experience in performing the required test or tests according to ASTM International standards.
 - ii. Any recognition that the laboratory may demonstrate with national or international laboratory accreditation bodies.
- c. Select the laboratory that offers the optimum balance between cost and demonstrated ability to perform the required test or tests.
- d. The Office of Pipeline Safety shall not select a laboratory pursuant to this subsection before either of the following, whichever occurs first:
 - i. The Office of Pipeline Safety has received written bids from at least three different laboratories.
 - ii. Thirty days from the date of the request for bids has passed.

Q. Operators of a master meter system will file an annual report with the Commission on Commission Form ~~1-90/15M (1990 Edition and no future editions)~~ MM-04 (Latest revision), "Annual Report for Calendar Year 20____, Small Operators of Gas Distribution System," incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004. This report will be filed with the Office of Pipeline Safety not later than April 15 for the preceding calendar year.

R. The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public safety.

S. To ensure compliance with provisions of this rule, the Commission or an authorized representative thereof, may enter the premises of an operator of a master meter system to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the operation of the master meter system.

T. All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1641.) The Governor's Office authorized the notice to proceed through the rulemaking process on November 16, 2010.

[R11-110]

PREAMBLE

1. Sections Affected

Rulemaking Action

R17-5-301	New Section
R17-5-302	Amend
R17-5-303	New Section
R17-5-304	New Section
R17-5-305	New Section
R17-5-306	New Section
R17-5-307	New Section
R17-5-308	New Section
R17-5-309	New Section
R17-5-310	New Section
R17-5-311	New Section
R17-5-312	New Section
R17-5-313	New Section
R17-5-314	New Section
R17-5-315	New Section
R17-5-316	New Section
R17-5-317	New Section
R17-5-318	New Section
R17-5-319	New Section
R17-5-320	New Section
R17-5-321	New Section

2. The statutory authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 28-366, 32-2352, 32-2371, 32-2371.01, 32-2372 and 32-2374

Implementing statutes: A.R.S. §§ 32-2351 through 32-2394 and A.R.S. Title 41, Chapter 6, Articles 1, 6, and 7.1, Laws 2010, Ch. 202, § 6, and Laws 2011, Ch. 190, § 29

3. A list of all previous notices appearing in the *Register* addressing the proposed rules:

Notice of Rulemaking Docket Opening: 17 A.A.R. 430, March 25, 2011

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: John Lindley
Address: Administrative Rules
Department of Transportation
1801 W. Jefferson St., Mail Drop 517M
Phoenix, AZ 85007
Telephone: (602) 712-8804
Fax: (602) 712-3373
E-mail: jlindley@azdot.gov

Please visit the ADOT web site to track progress of these rules and any other agency rulemaking matters at www.azdot.gov/mvd/mvdrules/index.asp.

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5. An explanation of the rules, including the agency's reasons for initiating the rules:

The Department engages in this rulemaking to amend its existing rules relating to the licensure and administration of professional driver training schools. The updated rules will enable the Department to:

1. Implement the current provisions of Laws 2010, Ch. 202, § 6, allowing the Director to contract with a private entity to conduct audits, inspections, licensure, and administration of traffic survival schools under A.R.S. Title 32, Chapter 23; and
2. Prepare for the future implementation of Laws 2011, Ch. 190, § 29, allowing the Director to contract with a private entity to conduct audits, inspections, licensure, and administration of all professional driver training schools under A.R.S. Title 32, Chapter 23, beginning March 31, 2012.

Additionally, minor changes were made to update related citations, provide modernization in the rule drafting style, and to improve the clarity, conciseness, and understandability of the rules.

6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Department of Transportation currently licenses and provides administrative oversight for 210 privately operated professional driver training schools under A.R.S. Title 32, Chapter 23, and 17 A.A.C. 5, Article 3. These licensed professional driver training schools offer training at 321 Arizona locations, including 75 traffic survival schools at 137 locations and 58 high schools, and may charge a consideration or tuition for their services under A.R.S. § 32-2351, or a reasonable and commensurate fee for the training under A.R.S. § 28-3307 as applicable. Additionally, the Department licenses 670 professional driver training school instructors, including 166 traffic survival school instructors that conduct training and educational sessions designed to improve the safety and habits of drivers required to attend and successfully complete training and educational sessions under A.R.S. Title 28, and 105 high school instructors approved by the Department of Education and licensed by the Department to educate and train students to safely operate a motor vehicle or to prepare applicants for examinations given by the Department for a driver license or instruction permit.

Since traffic survival schools are professional driver training schools under A.R.S. Title 32, Chapter 23, the Department must update these rules to implement provisions of Laws 2010, Ch. 202, § 6, allowing the Department to contract with a private entity to conduct inspections and administer the rules as they relate to the licensure and administration of traffic survival schools. All changes made to the rules are technical and made applicable to a private entity if contracted by the Department to conduct activities authorized by law, to improve the clarity of the rules, remove unnecessary provisions, and prepare for the future implementation of Laws 2011, Ch. 190, § 29.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Eileen Colleran
Address: Government Relations Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-7685
Fax: (602) 712-3232
E-mail: EColleran@azdot.gov

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

No oral proceeding is scheduled for this rulemaking. A request for an oral proceeding may be made to the agency official listed under item 4. If no oral proceeding is requested, the public record for this rulemaking will close at 5:00 p.m. on September 20, 2011.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

ARTICLE 3. PROFESSIONAL DRIVER TRAINING SCHOOLS

Section

R17-5-301.	Reserved Definitions
R17-5-302.	Commercial driving schools and instruction licensing <u>Professional Driver Training School Licensing; Eligibility and Application Requirements</u>
R17-5-303.	<u>Instructor Licensing; Eligibility and Application Requirements</u>
R17-5-304.	<u>Temporary Professional Driver Training Instructor License</u>
R17-5-305.	<u>Fingerprint Background Check; Fingerprint Clearance Card</u>
R17-5-306.	<u>Examination and Licensing of Professional Driver Training Schools and Instructors</u>
R17-5-307.	<u>Application Completeness; Approval or Denial of Application; Hearing; Appeal</u>
R17-5-308.	<u>License Issuance; Effective Date; Expiration; Display</u>
R17-5-309.	<u>Modification of Original Application Information</u>
R17-5-310.	<u>Professional Conduct; Conflicts of Interest; Advertising</u>
R17-5-311.	<u>Continuity of Services to Participants</u>
R17-5-312.	<u>Accountable Forms Inventory</u>
R17-5-313.	<u>Records Retention; Submission of Monthly Reports</u>
R17-5-314.	<u>Periodic Audits, Inspections, and Investigations</u>
R17-5-315.	<u>Renewal of License</u>
R17-5-316.	<u>Instructor Responsibilities</u>
R17-5-317.	<u>Method of Instruction</u>
R17-5-318.	<u>Traffic Survival Schools</u>
R17-5-319.	<u>High School Driver Education Certificate of Completion</u>
R17-5-320.	<u>Cease and Desist Order; Hearing and Appeal</u>
R17-5-321.	<u>Non-compliance; Notice of Corrective Action; Cancellation, Suspension, or Revocation of a Professional Driver Training School or Instructor License; Hearing and Appeal</u>

ARTICLE 3. PROFESSIONAL DRIVER TRAINING SCHOOLS

R17-5-301. ~~Reserved Definitions~~

In addition to the definitions under A.R.S. § 32-2351, the following terms and phrases apply to this Article, unless otherwise specified:

“Accountable forms inventory” means a series of distinctly and consecutively numbered documents provided by the Director or authorized contractor to a school licensed under this Article for:

Recording in a log, the assigned number of each document completed, issued, or voided by a licensee; and

Reporting to the Director or authorized contractor the assigned number of each document completed, issued, or voided by a licensee.

“Activity” means the specific services a licensee is authorized to offer, provide, or conduct under this Article, which may include services relating to:

Driver education and training,

Commercial driver education and training,

Motorcycle rider education and training,

Traffic survival education and training, or

Special performance evaluations.

“Applicant” means an individual or school requesting the issuance or renewal of a license to offer, provide, or conduct an activity authorized by the Director or authorized contractor under A.R.S. Title 32, Chapter 23, and this Article.

“Application date” means the date an applicant signs the application.

“Audit” means a periodic review of the operations, facilities, equipment, and records of a licensee under this Article.

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which is performed by the Director or authorized contractor under A.R.S. § 32-2352 to assess and ensure licensee compliance with all applicable federal and state laws, rules, and Department guidelines.

“Authorized contractor” means a private entity that contracts with the Director under A.R.S. § 32-2352 to manage the licensure and administration of professional driver training schools and instructors, administer the rules prescribed under this Article, send traffic survival school assignments on behalf of the Director as prescribed under R17-4-404, and carry out the duties stipulated in the Department’s procurement contract as applicable under A.R.S. Title 32, Chapter 23.

“Branch” means a site where a licensee conducts instruction under this Article, which is:

Established by the licensee in addition to the licensee’s established or principal place of business.

Used by a licensee for business purposes only and is not a residence.

Authorized by the Director or authorized contractor for use in the performance of licensed activities, and

Located within the same county as the licensee’s established primary place of business.

“Business day” means a day other than a Saturday, Sunday, or legal state holiday.

“Business manager” means an employee of a school who has complete oversight, supervision, and responsibility of all operations necessary to ensure full compliance with all applicable statutes, rules, and program guidelines.

“Cancellation” means a Department action that withdraws a license issued under A.R.S. Title 32, Chapter 23, and this Article.

“Certificate of completion” means a document approved by the Director or authorized contractor that is issued by a licensee to a student who has demonstrated successful completion of a training and educational session conducted under this Article.

“CDL” means commercial driver license, which has the same meaning as A.R.S. § 28-3001.

“CDRS” means a certified driver rehabilitation specialist approved by the National Association for Driver Rehabilitation Specialists.

“Curriculum” means a set course of instruction used by a licensee for the training and education of students, which is either supplied by, or approved by, the Director or authorized contractor as applicable for each activity the licensee is authorized to perform.

“Department” means the Arizona Department of Transportation.

“Equipment” means any device or motor vehicle used by a licensee to provide a service authorized by the Department under this Article.

“Established place of business” means the business site of a licensee, which is:

Approved by the Director or authorized contractor.

Used for business purposes only and is not a residence, and

Used as the primary site where a licensee performs activities authorized by the Director or authorized contractor under this Article.

“Good standing” means an applicant or licensee having no:

Delinquent fee, tax, or unpaid balance owed to the Department;

Department-issued license cancelled, suspended, revoked, or denied within the previous three years of the application date;

Dismissal or resignation from employment within three years before the application date, if the applicant is a former Department employee or professional driver training school owner or employee, to include:

Dismissal based on allegations of misconduct, which have a reasonable relationship to the activities for which a license is sought under this Article; or

Resignation from employment in lieu of such dismissal under a:

Mutual agreement following allegations of misconduct, or

Designation of “not eligible for rehire”;

Fingerprint clearance card required for licensure under this Article cancelled, suspended, or revoked; or

Pending corrective action, as defined under R17-5-321, relating to a Department-issued license.

“Immediate family member” has the same meaning as prescribed under A.R.S. § 28-2401.

“Inactivation” or “inactive” means a temporary or permanent status, assigned by the Department to a school or instructor previously licensed under this Article, which prohibits the school or instructor from further engaging in the

previously licensed activity after the occurrence of any of the following actions:

- Cancellation of license.
- Suspension of license.
- Revocation of license.
- Non-renewal of license, or
- Relinquishment of license.

"Instructor license" means an annual license issued by the Director or authorized contractor under A.R.S. § 32-2372, and renewable under A.R.S. § 32-2374, which authorizes a person to present specific training and educational curriculum to students as provided under this Article.

"Licensee" means a school or instructor licensed by the Director or authorized contractor under A.R.S. §§ 32-2371 or 32-2372, and this Article, to perform specific activities involving the presentation of training and educational curriculum to students.

"Log" means a complete chronological record, maintained by a licensee as provided under this Article, on a form approved by the Department, which:

- Documents all licensed activities performed by a licensee, and
- Details the disposition of all accountable forms inventory assigned to a school by the Director or authorized contractor.

"Principal" means any of the following:

- If a sole proprietorship - the sole proprietor;
- If a partnership, limited partnership, limited liability partnership, limited liability company or corporation - the partner, manager, member, officer, director, or agent, and each stockholder owning 20 percent or more of the limited liability company or corporation; or
- If a political subdivision or government agency - the political subdivision or agency head.

"Principal place of business" means an Arizona location approved by the Director or authorized contractor that is designated by a school as its administrative headquarters where records are kept.

"Program" means the Department's Professional Driver Training School program.

"Revocation" means a Department action that terminates, for an indefinite period of time, a licensee's privilege to operate a school or conduct instruction under this Article.

"Satisfactory driver record" means an applicant or licensee has had:

- No conviction for driving under the influence, reckless or aggressive driving, racing on a highway, or leaving the scene of an accident;
- No driver license previously canceled, suspended, revoked, or disqualified; and
- No more than three previous assignments to attend traffic survival school and no pending assignment.

"Site" means any space used by a licensee, in the regular course of business, to conduct operations or training authorized under this Article.

"Special performance evaluation" means a comprehensive road test conducted as a primary means of determining whether a person with a mental or physical condition can safely operate a vehicle.

"Suspension" means a Department action that prohibits, for a stated period of time, a licensee from operating as a school or instructor under this Article.

"Temporary instructor's license" means the preliminary license issued to an instructor applicant by the Director or authorized contractor under A.R.S. § 32-2372, which authorizes the applicant to perform program activities under this Article.

R17-5-302. ~~Commercial driving schools and instruction licensing~~ Professional Driver Training School Licensing: Eligibility and Application Requirements

A. Definitions. The following words and phrases have been defined as follows:

1. "Commission": The Arizona Highway Commission.
2. "Instructor": Any person, whether acting for himself as operator of a professional driver training school or for any such school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate or drive motor vehicles or preparing to take an examination for an operator or chauffeur's license or learner's permit; and any person who supervises the work of any other such instructor.
3. "Professional driver training school or school": A business enterprise conducted by an individual, association, part-

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nership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, to prepare an applicant for an examination given by the state for an operator's or chauffeur's license or learner's permit and charging a consideration or tuition for such services.

4. ~~"Superintendent": The superintendent of the Motor Vehicle Division.~~
5. ~~"Suspension": The licensee's privilege to operate a professional driving school or to instruct (as provided in these rules) is temporarily withdrawn.~~
6. ~~"Revocation": The licensee's privilege to operate a professional driving school or to instruct (as provided in these rules) is terminated indefinitely.~~
7. ~~"Operator": The owner of a professional driver training school or one who holds himself out as offering, or one who otherwise offers, for a consideration or tuition, any service or services enumerated in A.R.S. § 32-2351, subsection (3).~~
8. ~~"Doing business": Soliciting for the purpose of offering, or performing any or all of the Acts set forth in A.R.S. § 32-2351(2) and (3).~~

B. General provisions:

1. ~~Administration and enforcement. The Commission, through the Superintendent of Motor Vehicle Division, shall administer and enforce the provisions of this Chapter.~~
2. ~~Schools and instruction subject to licensing and rules. Section 1, Title 32, Chapter 23 and these rules shall apply to driving schools of all kinds as defined in these rules and to all persons giving instruction in driving schools or giving instruction in the operation of motor vehicle as defined in "instructor."~~
3. ~~Use of driver training vehicle. No operator of a driving school shall lease, rent, or by any other arrangement permit the use of a vehicle used in driver training by another person when said vehicle is being operated by a student.~~
4. ~~Employment of Motor Vehicle Division or Traffic Safety employees. No school will be permitted to engage the service of an employee of the Motor Vehicle Division or Traffic Safety as an instructor, agent or employee.~~

C. Licenses:

1. ~~Requirements for an original license to operate a professional driver training school and a license to give driving instructions.~~
 - a. ~~In general two types of licenses will be issued. A license to operate a driving school and a license for an individual to give driving instruction as an employee of a school.~~
 - b. ~~A license to operate a driving school shall include the right to give driving instruction only when the licensee is licensed as an instructor or employs a person who is licensed as an instructor in accordance with all the requirements of law.~~
 - c. ~~A copy of the instructor's license must be displayed in the office of each school he may represent.~~
 - d. ~~The license issued by the Division to operate a driving school shall be prominently displayed in the place of business of the driving school.~~
 - e. ~~The instructor's identification card shall be in the possession of the licensee at all times that he instructs or actually accompanies a student. The instructor must surrender this card to the Division upon becoming inactive or when his license is cancelled, suspended or revoked.~~
 - f. ~~A license certificate shall be issued to each driving school for each instructor employed by such school. This certificate shall be prominently displayed in the place of business along with the license to operate such school.~~
 - g. ~~In case of loss or mutilation, duplicate license or instructor's identification card may be issued by the Division upon submission of a properly signed and completed application accompanied by the required fee and an affidavit setting forth the circumstances. The affidavit must show the date the license or identification card was lost, mutilated, or destroyed, and the circumstances involving the loss, mutilation, or destruction.~~
 - h. ~~A license to operate a driving school and any instructor's license shall be nontransferable.~~
 - i. ~~Each license will be effective on the date of issuance and will expire on the last day of the calendar year.~~
 - j. ~~No license fee will be prorated in the event the license is issued less than 12 calendar months prior to expiration.~~
2. ~~Application for original professional driving school license.~~
 - a. ~~Before any license is issued an application shall be made in writing to the Division on a form prepared and furnished by the Division, which shall include the following:~~
 - i. ~~The name of the school together with ownership and controlling officers thereof.~~
 - ii. ~~The application for a driving school license shall include the official name of the school and the location of its established place of business.~~
 - iii. ~~The specified course of instruction which will be offered.~~
 - iv. ~~The place or places where such instruction will be given.~~
 - v. ~~The qualifications of the instructors and supervisors in each specific field together with their names, addresses and other information which may be required by the superintendent.~~
 - vi. ~~Samples of any and all contracts to be used by the school.~~
 - vii. ~~Sample copies of all forms of receipts to be used by the school.~~
 - viii. ~~Copies of all forms used by the school which will be furnished or delivered to students.~~

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- ix. ~~Driver training schools proposing to give instructions pertaining to the operation of motorcycles, buses, and trucks other than 1/2- or 3/4-ton pickups must submit their complete curriculum for approval along with their application.~~
- b. ~~Every application for a license to operate driver training school must be accompanied by a fee of \$200.00. An applicant doing business in more than one location must secure a license for each branch office. An application for a branch license must be accompanied by a fee of \$50.00.~~
- e. ~~All renewal application forms must be submitted to the Division not less than 30 days prior to the time the present school license expires. The Division will not be responsible for the timely issuance of any renewal license when application is not received at least 30 days prior to the expiration date.~~
- d. ~~Each driving school shall submit to the Division, upon application for a license or a renewal license, a complete list of all personnel in its organization and shall indicate those in the staff who will be instructing. When changes are made in instructor personnel, notification shall be made to the Division within 10 days thereafter.~~
- e. ~~An individual, association, partnership, or corporation may qualify for a license to operate a professional driver training school through himself, one of its partners, officer of the corporation or managing employee. The qualifying party shall be a regular and bona fide employee whose principal employment is with the employer for whom he has qualified and must have active and direct supervision and control of all operations necessary to secure full compliance with all the provisions of Arizona Revised Statutes Title 32, Chapter 23 and these rules.~~
- 3. ~~Application for driving school instructor's license.~~
 - a. ~~Application for an instructor's license shall be made upon a form supplied by the Division, which form may require the following disclosures and information:~~
 - i. ~~True full names~~
 - ii. ~~Residence addresses~~
 - iii. ~~Fingerprint card~~
 - iv. ~~Employment histories~~
 - v. ~~Personal references~~
 - vi. ~~Such other information which the Division deems pertinent to determine the applicant's good moral character. No instructor's license shall be issued except upon compliance with all the provisions of these rules and the provisions of A.R.S. §§ 32-2351 through 32-2391.~~
 - b. ~~The application for an instructor's license shall include the official name of the school at which the applicant will be an instructor. The licensed instructor shall notify the Division of his initial employment or of any change of employer within 10 days thereafter.~~
 - e. ~~Every application for a license as a driving school instructor must be accompanied by a fee of \$10.00.~~
 - d. ~~All renewal application forms must be submitted to the Division not less than 30 days prior to the time the previous license expires. The Division will not be responsible for the timely issuance of any renewal license when application is not received at least 30 days prior to expiration date.~~
- D. ~~Requirements of applicants for driver training school license and driver training instructors. Every applicant for a license to operate a driving school and every applicant for a license to give instructions in driving motor vehicles shall meet the requirements as set forth below:~~
 - a. ~~Each applicant shall pass an examination given by the Division which may consist of an actual demonstration or a written test or both covering:~~
 - i. ~~Traffic laws~~
 - ii. ~~Safe driving practices~~
 - iii. ~~Operation of motor vehicles~~
 - iv. ~~Knowledge of teaching methods, techniques, and practices~~
 - v. ~~Driving school statutes and regulations, business ethics, office procedures, elementary recordkeeping.~~
 - b. ~~Each applicant must be of good moral character, at least 21 years of age and have the minimum of a high school education or the equivalent.~~
 - e. ~~Each applicant must hold a valid Arizona driver license.~~
 - d. ~~Each applicant must have a satisfactory driving record.~~
 - e. ~~All instructors shall be physically and mentally able to safely operate a motor vehicle and to train others in the operation of motor vehicles. To substantiate this, the superintendent may require a properly signed and completed certificate of medical examination conducted by a person qualified and licensed to practice medicine in Arizona.~~
- E. ~~Insurance and safety requirements:~~
 - 1. ~~All professional school operators shall maintain bodily injury and property damage liability insurance on motor vehicles while being used in driving instruction, insuring the liability of the driving school, the driving instructor, and any person taking instruction in at least the following amounts: \$10,000.00 for bodily injury to or death of any one person in any one accident and, subject to said limit for one person, \$20,000.00 for bodily injury to or death of two or more persons in any one accident, and the amount of \$5,000.00 for damage to property of others in any one accident.~~

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2. Evidence of such insurance coverage in the form of a certificate from the insurance carrier shall be filed by the school with the Division and the certificate shall stipulate that the insurance contract carried by the school provides for cancellation only upon 30 days prior written notice to the Division and shall further include the make, model, year and motor or serial number of every vehicle which will be used for instruction.
3. When a vehicle is added to or exchanged in a driving school fleet covered under a fleet insurance plan, the licensee shall provide the Superintendent a copy of a policy rider issued by the insurance carrier showing the addition or exchange, with complete descriptions of the vehicles involved.

F. Place of business:

1. The established place of business of each driver training school must be regularly occupied and primarily used by that driver training school for the business of giving driving instructions for hire and the business of preparing members of the public for the examination given by the Division for a motor vehicle operator's license.
2. Each place of business shall be safe and meet all requirements of state law and local ordinances, and the superintendent may require applicants and licensees to provide proof of compliance with local zoning ordinances.
3. Each school shall post its office hours in a conspicuous place and shall be open to the public during these hours. In the absence of the operator, the person left in charge of the office during the posted office hours shall be fully qualified and authorized to give pertinent information to the public concerning lessons and accounts, and to give information to any representative of the Division concerning the operation of the school.
4. When a driving school office is located in an office building, store, or any other physical structure which is not a part of a dwelling, there shall be a clear separation between the driving school business and any other activity housed in the building.
5. The school's license must be conspicuously displayed.
6. All records pertaining to the operation of the school shall be maintained in the established place of business and available for inspection during normal business hours.
7. Every place of business used by each driving school shall provide adequate facilities for any student being given instructions in other than behind the wheel driver training.

G. Branch offices:

1. A driver training school desiring to open a branch office shall make application on a form prescribed by the Division and accompanied by the required fee of \$50.00. If application is approved, the Division will issue a copy of the license of the principal place of business, appropriately endorsed, for use in the branch office.
2. This copy must be conspicuously displayed in such branch office at all times.
3. A branch office may not be removed to a new location without prior approval of the Division.
4. Should a branch office be discontinued, the branch office copy of the license must be surrendered immediately to the Division.
5. The branch office must meet all of the requirements of the licensed principal place of business and must be equipped to, and shall perform, substantially the same services apply to the principal place of business.
6. Branch offices are restricted to the county wherein the principal place of business is located.

H. Advertising:

1. A school shall not use any name other than its licensed name for advertising or publicity purposes. Nor shall the school use the word "State" in any part of the school name. A licensed school which advertises, solicits patrons, or conducts the business regulated by A.R.S. § 32-2351 et seq., by the use of or under a name other than the name by which the school was licensed, must apply for and obtain an original license for such school before it may lawfully operate.
2. No driving school advertisement shall indicate in any way that a school can issue or guarantee the issuance of a driver's license, or imply that the school can in any way influence the Division in the issuance of a driver's license or imply that preferential or advantageous treatment from the Division can be obtained.
3. Schools that are in fact licensed by the Division may in their advertising state they are "LICENSED" but shall not indicate that a school is approved, sanctioned, or in any other way endorsed by the Division.

I. Professional conduct:

1. No driving school instructor, employee, or agent will be permitted to accompany any student into any examining office rented, leased, or owned by the Division of Motor Vehicles for the purpose of taking a driver license examination.
2. No driving school instructor, employee, or agent will be permitted to personally solicit any individual on the premises rented, leased, or owned by the Division of Motor Vehicles for the purpose of enrolling them in any professional driving school.
3. Violation of any of the provisions of this Article may be grounds for the cancellation, suspension or revocation of an instructor's license or a school's license, subject to the provisions of A.R.S. §§ 32-2373 and 32-2391 and these rules.

J. Records and contracts: Every licensee shall maintain the following records:

1. A permanently bound book or a card file setting forth the name, address, contract number, and terms of payment with respect to every person receiving lessons, lectures, tutoring, instructions of any kind or any other service relating to

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instructions in the operations of a motor vehicle. The book or card file shall also contain records showing the date, type, and duration of all lessons, lectures, tutoring and instructions including the name of the instructor giving such lessons and the tag number, make and model of vehicle used to conduct the training.

2. A record of all receipts and disbursements.
3. If a licensee enters into written contracts with any person or group of persons receiving lessons, lectures, tutoring or instructions relating to the operation of a motor vehicle, the original contract must be given to the student or his agent who executes the contract, and a carbon copy of the contract retained as part of the records of the licensee.
4. All records must be retained for three years.

K. Equipment:

1. All vehicles used for driver training must be equipped with the following:
 - a. Any motor vehicle with an automatic transmission must be equipped with at least a dual braking device which will enable an accompanying instructor to bring the car under control in case of an emergency.
 - b. Any motor vehicle equipped with a standard transmission must have at least a dual clutch and braking device which will enable an accompanying instructor to bring the car under control in case of an emergency.
2. All vehicles must be maintained in safe operating conditions at all times.

L. Suspension, revocation, cancellation and denial of driver training school and driver training instructor licenses:

1. The superintendent may suspend or revoke the license of any driver training school or driver training instructor:
 - a. If the licensee fails to do anything which is required by the provisions of A.R.S. Title 32, Chapter 23, or these rules relating to driver training schools and driver training instructors.
 - b. If the licensee does anything which is prohibited by the provisions of A.R.S. Title 32, Chapter 23, or these rules relating to driver training schools or driver training instructors.
 - c. If the application contains any misstatements or misrepresentations.
2. No license fee will be refunded in the event a license is suspended or revoked.
3. The superintendent may deny any application for a driver training school or driver training instructor's license, if the applicant does not qualify for the license under the provisions of A.R.S. Title 32, Chapter 23, or these rules relating to driver training schools and driver training instructors. Previous revocation, misstatements or misrepresentations may be grounds for denying a license.

M. The superintendent, upon determining that grounds for cancellation of a license exist, shall give notice thereof to the licensee in writing, and by the notice shall require the licensee to appear before him at a specified time and place, then and there to show cause why his license should not be cancelled. At the time and place fixed by the superintendent, which shall be not less than 10 days after notice, the licensee shall appear and be heard and may have other persons he desires present and testify at the hearing.

A. An applicant for a professional driver training school license, issued by the Director or authorized contractor under A.R.S. § 32-2371 and this Section, shall be at least 21 years of age and meet all applicable licensing requirements under state law and this Article when applying for an original or renewal license.

B. An applicant for a professional driver training school license shall complete, and submit to the Director or authorized contractor, an application packet that contains all of the following:

1. Application, completed on a form approved by the Department;
2. Certification that each classroom used for the instruction of students is maintained in compliance with all applicable fire codes and local zoning ordinances;
3. Certification that each classroom used for the instruction of students meets the accessibility requirements of the Americans with Disabilities Act of 1990 (ADA) [42 U.S.C. 12101 et seq.], as amended, and that the school will also comply with the ADA by providing appropriate auxiliary aids and services, such as qualified sign language interpreters for the hearing impaired, to students with disabilities requesting reasonable accommodation.
4. Copy of complete curriculum, including a sample of all written examinations and answer keys, unless the curriculum is provided by the Director or authorized contractor;
5. Copy of documents, and proof of the filing of documents, relating to the applicant's business. If the applicant is a:
 - a. Corporation:
 - i. A copy of the articles of incorporation, including any amendments filed with the Arizona Corporation Commission; and
 - ii. A copy of any board meeting minutes or annual reports that reflect any changes to the corporate name, structure, or officers;
 - b. Limited liability company:
 - i. A copy of the articles of organization, including any amendments filed with the Arizona Corporation Commission; or
 - ii. A copy of the foreign limited liability company registration, stamped "filed" by the Arizona Corporation Commission, and a copy of the certificate of registration issued by the Arizona Corporation Commission; or
 - c. Limited partnership or a limited liability partnership:
 - i. A copy of a valid certificate of existence issued by the Office of the Secretary of State; or

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- ii. A copy of a certificate of limited partnership, certificate of foreign limited partnership, limited liability partnership form, foreign limited liability partnership form, or statement of qualification for conversion of limited partnership or limited liability partnership, stamped "filed" by the Office of the Secretary of State;
- 6. Copy of a high school diploma or equivalent for each applicant;
- 7. Documentation prescribed under A.R.S. § 41-1080 indicating that each applicant's presence in the United States is authorized under federal law if the applicant is an individual, a sole proprietor, or part of a general partnership;
- 8. Motor vehicle record, dated within five days of the application date, which indicates that within the previous 39 months each applicant maintained a satisfactory driver record as defined under R17-5-301;
- 9. Payment of the license fees prescribed under A.R.S. § 32-2374 for each activity requested;
- 10. Supplemental form listing each professional driver training school branch site, if applicable, accompanied by payment of any applicable branch license fees prescribed under A.R.S. § 32-2374; and
- 11. Verification of liability insurance coverage reflecting at least the minimum amount prescribed under A.R.S. § 32-2393 for each motor vehicle used to provide instruction.
- C. An applicant for a professional driver training school license to perform behind-the-wheel training shall additionally submit to the Director or authorized contractor, for approval, diagrams detailing a minimum of three separate road skills test routes with narrative indicating all required maneuvers.
- D. An applicant for a professional driver training school license to perform special performance evaluation activity shall additionally submit to the Director or authorized contractor:
 - 1. An instructor application completed by an individual with CDRS certification, and
 - 2. A copy of the individual's CDRS certification.

R17-5-303. Instructor Licensing; Eligibility and Application Requirements

- A. An applicant for an instructor's license under A.R.S. § 32-2372 and this Section, shall:
 - 1. Apply through a school licensed by the Director or authorized contractor under A.R.S. § 32-2371 and R17-5-302;
 - 2. Be at least 21 years of age; and
 - 3. Meet all applicable licensing requirements under state law, and this Article, when applying for an initial or renewal license to give instruction.
- B. A business manager of a school licensed under A.R.S. § 32-2371 and R17-5-302 shall submit to the Director or authorized contractor, on behalf of each instructor applicant, an application packet that contains the instructor applicant's:
 - 1. Application, completed on a form approved by the Department;
 - 2. Copy of a high school diploma or equivalent;
 - 3. Copy of a valid Arizona driver license with endorsements representative of the vehicle to be used for training;
 - 4. Documentation prescribed under A.R.S. § 41-1080 indicating that the applicant's presence in the United States is authorized under federal law;
 - 5. Letter from the school's licensed CDRS instructor, if the instructor applicant is applying for a license to perform special performance evaluation activity, indicating:
 - a. The applicant's CDRS trainee status and the date the applicant will sit for certification, or
 - b. The applicant's updated CDRS trainee status if the CDRS certification has not yet occurred at the time of renewal;
 - 6. Motor vehicle record, dated within five days of the application date, which indicates that within the previous 39 months the applicant maintained a satisfactory driver record as defined under R17-5-301;
 - 7. Payment of license fees prescribed under A.R.S. § 32-2374 for each activity requested; and
 - 8. Statements from three character references indicating each character reference's:
 - a. Name,
 - b. Address,
 - c. Contact number,
 - d. Relationship to the instructor applicant, and
 - e. Number of years associated with the instructor applicant.
- C. A business manager of the school shall submit to the Director or authorized contractor, as provided under A.R.S. § 32-2372, an affidavit certifying that the instructor applicant:
 - 1. Has the necessary skills and abilities to give instruction on driver training at a professional level;
 - 2. Has completed at least 100 hours of combined classroom and vehicle training representative of the class of vehicle appropriate to the activity; and
 - 3. If applying for a traffic survival school instructor license, has completed eight hours of traffic survival attendance as part of the training required under subsection (2).
- D. A business manager of the school shall immediately surrender to the Director or authorized contractor all inactive instructor licenses issued under this Article.

R17-5-304. Temporary Professional Driver Training Instructor License

- A. The Director or authorized contractor shall issue a temporary instructor license to an instructor applicant under A.R.S. § 32-2372 after receiving:
 - 1. A successfully completed application packet, as provided under R17-5-303; and
 - 2. A copy of the fingerprint clearance card required of the applicant under R17-5-305.
- B. The Director or authorized contractor may issue a permanent annual instructor license to an instructor applicant under A.R.S. § 32-2372, if:
 - 1. The applicant successfully completes the training session and licensing examination required under R17-5-306 prior to expiration of the temporary instructor license issued under subsection (A), and
 - 2. The applicant is otherwise qualified under this Article to receive a permanent annual instructor license.
- C. Failure of an applicant to successfully complete the requirements under subsection (B) prior to expiration of the temporary instructor license may result in either:
 - 1. The school withdrawing the application, or
 - 2. The Department requesting a hearing under A.R.S. § 32-2373 and R17-5-307 to deny issuance of a permanent annual instructor license.

R17-5-305. Fingerprint Background Check; Fingerprint Clearance Card

- A. An applicant for a license issued under A.R.S. Title 32, Chapter 23, Article 2, and this Article shall:
 - 1. Complete a fingerprint background check conducted by the Arizona Department of Public Safety under A.R.S. § 41-1758.01, and
 - 2. Submit to the Director or authorized contractor a copy of the fingerprint clearance card issued to the applicant under A.R.S. § 41-1758.03.
- B. An applicant is responsible for all costs associated with obtaining the fingerprint clearance card.
- C. All licensed professional driver training school principals and instructors shall maintain a valid fingerprint clearance card while licensed under this Article, and shall provide written notice to the Director or authorized contractor within 10 days if the fingerprint clearance card is cancelled, suspended, or revoked.

R17-5-306. Examination and Licensing of Professional Driver Training Schools and Instructors

- A. An applicant or principal, as applicable, shall attend a training session and pass a required licensing examination administered by the Director or authorized contractor before issuance of:
 - 1. A professional driver training school license, or
 - 2. A permanent annual instructor license.
- B. The Director or authorized contractor shall limit an applicant or principal, as applicable, to two scheduled opportunities to successfully complete each examination for licensure administered under this Section.

R17-5-307. Application Completeness; Approval or Denial of Application; Hearing; Appeal

- A. An application for licensing a professional driver training school or instructor is considered complete when the Director or authorized contractor receives a properly completed application packet with all required supporting documents.
- B. If an applicant fails to meet all applicable licensing requirements under R17-5-302 or R17-5-303, the Department may request a hearing under A.R.S. § 32-2373 to deny licensing, unless the application is withdrawn by the applicant.
- C. The Director or authorized contractor shall provide written notification to the professional driver training school, or instructor, of the approval or denial of a license. A notice denying the applicant a license under this Article shall specify the basis for denial and indicate that the Department will request a hearing on the denial with its Executive Hearing Office within 15 days of the date on the notice unless the application is withdrawn.
- D. The Director or authorized contractor may deny an application for a professional driver training school or instructor license if an individual included on the application has:
 - 1. Failed to maintain a satisfactory driver record as defined under R17-5-301.
 - 2. Failed to remain in good standing with the Department as defined under R17-5-301.
 - 3. Failed to meet the fingerprint clearance card requirement under R17-5-305.
 - 4. Made a material misrepresentation or misstatement on the application, or
 - 5. Violated a federal or state law or rule.
- E. The Department shall provide notice and conduct hearings as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5.
- F. A professional driver training school or instructor license applicant, whose application was previously denied by the Director or authorized contractor for making a material misrepresentation or misstatement on the application, shall not reapply for the license for a period of 12 months from the date of denial.

R17-5-308. License Issuance; Effective Date; Expiration; Display

- A. The Director or authorized contractor may issue the following licenses upon determining an applicant meets all eligibility and application requirements provided under A.R.S. Title 32, Chapter 23, and this Article.
 - 1. Professional driver training school.

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2. Temporary instructor.
3. Instructor, and
4. Branch.
- B.** The Director or authorized contractor shall issue a license under this Article only to an applicant in good standing as defined under R17-5-301.
- C.** The Director or authorized contractor shall only license a school that employs or contracts at least one instructor licensed under this Article.
- D.** A professional driver training school or branch license issued under this Article is valid only for a county in which the licensee's established place of business is located.
- E.** A professional driver training school, branch, or instructor license issued under this Article is:
 1. Effective on the date of issuance;
 2. Effective until its expiration on the last day of each calendar year, except:
 - a. A temporary instructor license issued under R17-5-304 shall expire 90 days from the date of issuance or immediately if the applicant fails to meet a licensing requirement.
 - b. A license subject to an active duty military extension shall expire as provided under A.R.S. § 32-4301, and
 - c. A license subject to an individual's limited period of authorized stay shall expire immediately if the individual's presence in the United States is no longer authorized under federal law; and
 3. Nontransferable.
- E.** A licensee shall prominently display all original licenses at the licensee's principal places of business.
- G.** An instructor shall prominently display copies of all appropriate licenses during instruction.
- H.** A school shall surrender to the Department within three business days after the date of any license inactivation, as defined under R17-5-301, all:
 1. Licenses.
 2. Accountable forms inventory, and
 3. Records pertaining to the school's operations and the training of students.

R17-5-309. Modification of Original Application Information

- A.** A licensed professional driver training school, or instructor, making any change to its original application information, other than ownership, shall provide to the Director or authorized contractor within two business days of making the change:
 1. Written notification of the change.
 2. On company letterhead, and
 3. Signed by a principal or business manager.
- B.** A licensed professional driver training school making a change to a principal shall:
 1. Notify the Director or authorized contractor within 30 days of making the change; and
 2. Submit to the Director or authorized contractor a new application for licensing under this Article, as a new entity, prior to conducting any business.
- C.** A professional driver training school submitting a new application to the Director or authorized contractor as provided under subsection (B) is subject to the fingerprint clearance card requirement under R17-5-305.
- D.** A licensed professional driver training school shall provide written notification to the Director or authorized contractor within 10 days of changing its contact person, business manager, or any licensed instructor.

R17-5-310. Professional Conduct; Conflicts of Interest; Advertising

- A.** A professional driver training school representative or instructor shall not:
 1. Accompany an applicant into any Department office or another school; or
 2. Solicit services to an individual on any premises rented, leased, or owned by the Department or another school.
- B.** A licensee shall maintain good standing with the Department while licensed under this Article.
- C.** A licensee shall not delegate or subcontract any activity licensed by the Director or authorized contractor under this Article.
- D.** The Department may take corrective action as provided under R17-5-314 and R17-5-321 if the Director or authorized contractor determines that a licensee has demonstrated unethical conduct in the performance of official duties, including:
 1. Verbally abusing, intimidating, or sexually harassing a student; or
 2. Making a false statement material to the licensing activities to personnel of the Director or authorized contractor.
- E.** A school shall only use, for licensing and advertising purposes, its official business name or d/b/a as indicated on the license issued under this Article.
- F.** An applicant or a licensed school shall provide proof of official business name documentation to the Director or authorized contractor upon request.
- G.** A school shall not use the following in any part of its school name:
 1. The terms "State," "Arizona Department of Transportation," "Department of Transportation," "Motor Vehicle Divi-

- tion,” “Motor Vehicle Department,” “Division of Motor Vehicles,” or “Department of Motor Vehicles”; or
2. The acronyms “ADOT,” “DOT,” “MVD,” or “DMV.”
- H.** School names are subject to approval by the Director or authorized contractor.
- I.** A licensee shall not represent that it is the state of Arizona, the Department, or the Division in any printed or electronic advertising or promotional material, except to the extent authorized by the Department. Licensee advertising shall not in any way:
1. Contain false or misleading information.
 2. Imply that the licensee can issue or guarantee issuance of a driver license or endorsement.
 3. Imply that the licensee can influence the Department in the issuance of a driver license or endorsement.
 4. Imply that the licensee can provide any activity the licensee is not licensed by the Director or authorized contractor to perform.
 5. Imply that preferential or advantageous treatment by the Department can be obtained, or
 6. Use a term prohibited under subsection (G).
- J.** A school licensed by the Director or authorized contractor under this Article may state in its advertising that it is “LICENSED” by the Department, but shall not indicate that the school is approved, sanctioned, or in any other way endorsed by the Department.
- K.** A licensed instructor, in any official capacity as an instructor or for compensation, shall not provide any classroom or skills training for an immediate family member or a principal or employee of any school that employs the instructor.

R17-5-311. Continuity of Services to Participants

- A.** A principal of a school ceasing operations for any reason shall ensure continuity of services to students currently enrolled in training and education sessions as follows:
1. A principal shall notify each student currently scheduled for, or enrolled in, a training and education session that the school will be unable to provide the services previously offered; and
 2. A principal shall refund any payment received by the school for a training and education session not yet provided.
- B.** A principal of a school ceasing operations shall provide to the Director or authorized contractor upon request, a written list of all students notified under subsection (A) with an explanation of the final resolution reached as a result of the principal’s contact with the student.
- C.** A principal’s failure to provide continuity of services to enrolled students as provided under this Section may result in a loss of the principal’s status of good standing with the Department.

R17-5-312. Accountable Forms Inventory

- A.** Accountable forms inventory control. A licensee under this Article shall:
1. Ensure that all accountable forms inventory is secured at all times in a locked cabinet or safe at the licensee’s principal place of business, unless being used on the day of a class;
 2. Prohibit public or other unauthorized access to all accountable forms inventory;
 3. Maintain the status of all accountable forms inventory assigned to the school on an accountable forms inventory log provided to the licensee by the Director or authorized contractor;
 4. Return to the Director or authorized contractor all student and Department copies of any voided accountable forms inventory;
 5. Provide to the Director or authorized contractor, as provided under R17-5-313, a copy of the licensee’s current accountable forms inventory log; and
 6. Provide to the Director or authorized contractor a written report detailing the circumstances surrounding the loss or theft of any missing or stolen accountable forms inventory.
- B.** A licensee shall immediately file a report with the applicable law enforcement agency if any accountable forms inventory is stolen.
- C.** A licensee shall timely provide, to the Director or authorized contractor, a copy of the police report for stolen accountable forms inventory as soon as the report is issued.
- D.** A licensed instructor shall issue and report, to the Director or authorized contractor, all accountable forms inventory in sequential order.
- E.** A licensee shall retain for three years, in sequential order, all school copies of voided and properly issued forms.
- F.** A licensee shall accurately complete all required information on a certificate of completion:
1. The instructor providing the training listed on the certificate of completion shall sign the document once training is complete; or
 2. The instructor providing the final instruction, quiz, or test shall sign the certificate of completion if training is provided by multiple instructors.
- G.** A school shall use only Department-approved accountable forms inventory.
1. Commingling accountable forms inventory between schools is prohibited under any circumstances, including the ownership of multiple schools.

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2. If an instructor works for multiple schools, the accountable forms inventory shall be tracked separately by school to ensure inventories are not commingled or reported incorrectly.
- H.** A licensee shall not make a correction to a certificate of completion. If an error is made, the licensee shall:
 1. Void the certificate of completion.
 2. Write the word "VOID" or "VOIDED" clearly on the face of each voided certificate of completion, and
 3. Issue a new certificate of completion.
- I.** The Department shall not accept a certificate of completion that contains an alteration, erasure, correction, or illegible information.
- J.** A licensee shall not withhold issuance of a certificate of completion due to a payment dispute between the school and the student.
- K.** A principal or business manager shall submit to the Director or authorized contractor a written request for any additional accountable forms inventory the school may require.

R17-5-313. Records Retention: Submission of Monthly Reports

- A.** A business manager shall submit to the Director or authorized contractor, no later than the fifth day of each month, all certified instructor reports and certificates of completion issued by the school during the preceding month.
- B.** A traffic survival school instructor shall submit to the Director or authorized contractor, no later than three business days from the completion of each class, all certified instructor reports and certificates of completion issued by the instructor.
- C.** If a licensed school or instructor fails to timely or accurately submit to the Director or authorized contractor a report required under this Article, the Department may initiate corrective action. The Department may:
 1. Provide an oral or written warning for a first untimely or inaccurate report;
 2. Send a letter of concern for a second untimely or inaccurate report in a 12-month period; and
 3. Request a hearing to cancel, suspend, or revoke the license issued to the school or instructor under this Article for a third untimely or inaccurate report in a 12-month period.
- D.** Notwithstanding A.R.S. § 1-218, a licensee shall submit to the Director or authorized contractor all reports required under this Article by regular mail, certified mail, registered mail, electronic mail, or personal delivery. The following dates shall be used to determine whether a report was received within the required time-frames established under this Section:
 1. For regular mail, the postmark date;
 2. For certified or registered mail, the date of receipt by the designated delivery service;
 3. For electronic mail, the send date; and
 4. For personal delivery, the Director's or authorized contractor's time and date stamp.
- E.** A licensed school shall develop and maintain a driver education class training record for each student, which shall include at least the following information:
 1. Student's name;
 2. Student's phone number;
 3. Student's driver license or instruction permit number and expiration date;
 4. Fee amount collected for services;
 5. Date, type, and duration of all classroom lessons and practical instruction;
 6. Make, model, and license plate number of any vehicle used to conduct training, as applicable;
 7. Date and result of all tests administered;
 8. Number of certificates of completion issued; and
 9. Name and Department license number of each instructor who conducted a lesson or test.
- F.** All records pertaining to a licensed school's operations and training of students shall be:
 1. Stored at the licensee's Arizona principal place of business,
 2. Available for inspection by the Director or authorized contractor during business hours,
 3. Retained by the school for three years from the date of course completion, and
 4. Maintained at a secure site.
- G.** A licensed school authorized to perform multiple activities, shall establish and maintain separate records for each activity.
- H.** A licensed school shall maintain, for three years, attendance rosters for each class conducted.

R17-5-314. Periodic Audits, Inspections, and Investigations

- A.** To determine compliance with license requirements, the Director or authorized contractor may:
 1. Attend any professional driving school training session on a scheduled or unscheduled basis;
 2. Perform periodic reviews of the operations, facilities, equipment, and records; or
 3. Make random, onsite visits during posted business hours.
- B.** Failure of the licensee to allow or cooperate in an audit, inspection, or investigation may result in the Department issuing an immediate cease and desist order or requesting a hearing for revocation of a license issued under this Article.
- C.** During an audit, inspection, or investigation of a licensee, the Director or authorized contractor, a law enforcement agency, or employees of the Federal Motor Carrier Safety Administration may:

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1. Review and copy paper and electronic records;
2. Examine the site; and
3. Interview the school's employees, instructors, and customers.
- D.** A licensee shall make records available for audit, inspection, or investigation at the Arizona principal place of business.
- E.** After an audit, the Director or authorized contractor shall send notification to the school informing the school of the audit results.
- F.** If instances of non-compliance are found as a result of an audit, the Director or authorized contractor shall determine if any of the following actions are required:
 1. An informal meeting to discuss audit findings;
 2. A written compliance plan addressing audit findings;
 3. A probationary period; or
 4. A request for a hearing to cancel, suspend, or revoke a license to operate a school or conduct instruction under this Article.
- G.** The Department may issue a notice of corrective action to a licensee if the licensee fails to comply with a warning letter or audit findings provided by the Department or authorized contractor.
- H.** Each site used by a school as an office, training site, or classroom site shall:
 1. Be inspected and approved by the Director or authorized contractor prior to initial use or relocation.
 2. Be licensed by the Director or authorized contractor, and
 3. Have office hours posted in a conspicuous location at each site open to the public during the posted hours.
- I.** There shall be a clear separation between a school and any other business if a professional driver training school or traffic survival school is located in an office building, store, or other physical structure shared with any other business.
- J.** Any request by a school for inspection and approval of a site on an Indian Reservation shall contain the written permission of the appropriate Tribal authority.
- K.** Any request by a school for inspection and approval of a site on a military base shall contain the written permission of the appropriate military authority.
- L.** A school shall submit to the Director or authorized contractor a copy of the lease agreement for each site, as applicable.
- M.** Any request by a traffic survival school for inspection and approval of a site to be used for classroom instruction shall include the safe fire capacity of the classroom and be signed by a principal.

R17-5-315. Renewal of License

- A.** A completed renewal packet shall be submitted to the Director or authorized contractor a minimum of 30 days prior to license expiration.
- B.** Notwithstanding A.A.C. R17-1-102, failure to submit a renewal packet prior to December 31st shall result in the applicant being subject to all original licensing requirements.
- C.** A school renewal packet shall include:
 1. A renewal form and fee, as provided under A.R.S. § 32-2374, for each activity, branch, and instructor;
 2. A list of all personnel and employees of the school;
 3. The signature of all principals, as defined under R17-5-301; and
 4. If the school is to be licensed by the Director or authorized contractor for special performance evaluation activities, an affidavit issued by the school stating the CDRS training status for each instructor.
- D.** Notwithstanding A.R.S. § 32-2374, a permanent annual license issued by the Director or authorized contractor under this Article during the month of December shall not expire until the last day of the subsequent calendar year.

R17-5-316. Instructor Responsibilities

While licensed by the Director or authorized contractor under A.R.S. § 32-2372 and R17-5-303 to give instruction, the instructor shall:

1. Attend ongoing training as required by the Director or authorized contractor;
2. Provide written notice to the licensed professional driver training school and the Director or authorized contractor within 24 hours if the instructor's driver license is suspended, revoked, cancelled, or disqualified;
3. Conduct training only at training sites and on routes approved by the Director or authorized contractor; and
4. Follow the curriculum approved by the Director or authorized contractor.

R17-5-317. Method of Instruction

- A.** A licensed instructor shall teach only curriculum approved by the Director or authorized contractor to a student attending a class.
- B.** A licensed instructor shall not conduct personal business during a time designated for instruction.
- C.** A school employee shall not solicit students during training classes for businesses other than those licensed by the Director or authorized contractor.
- D.** A professional driver training school or instructor shall ensure that a student has successfully completed all training required by the Director or authorized contractor before issuing a certificate of completion to the student.

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1. Classroom instruction shall consist of a minimum of six hours of classroom instruction, and
2. Skill instruction shall consist of a minimum of six hours of behind-the-wheel training.

R17-5-318. Traffic Survival Schools

- A.** A traffic survival school or instructor shall allow only students that provide acceptable proof of traffic survival school assignment to register for and attend traffic survival school. The following documents are acceptable proof of assignment:
1. Notice of traffic survival school assignment or suspension for failure to attend traffic survival school,
 2. Court order indicating traffic survival school assignment, or
 3. Traffic survival school proof of assignment form obtained from the Department.
- B.** A traffic survival school or instructor shall not:
1. Conduct traffic survival school classes with a number of students in excess of the classroom's safe fire capacity reported to the Director or authorized contractor by the licensee under R17-5-314;
 2. Conduct traffic survival school classes in which there are more than 30 students per instructor;
 3. Exclude a translator, the Director, an authorized contractor, or Department personnel from attending a training and educational session;
 4. Issue a certificate of completion to a student that has not fully completed the required curriculum; or
 5. Sign a certificate of completion for a student that the instructor did not personally instruct.

R17-5-319. High School Driver Education Certificate of Completion

- A.** The Director or authorized contractor shall cooperate with the Department of Education, under A.R.S. §§ 28-3174 and 32-2353, to enable the issuance of a certificate of completion to a regularly enrolled full-time student as part of a high school driver education program.
- B.** The Director or authorized contractor shall license an instructor approved by the Department of Education to issue a certificate of completion.
- C.** A licensed instructor may issue a certificate of completion to a regularly enrolled full-time student who:
1. Successfully completes the classroom course of instruction required by the Department of Education, which shall waive the student's requirement to take the Department's written test; or
 2. Successfully completes the skills course of instruction required by the Department of Education, which shall waive the student's requirement to take the Department's skills test.
- D.** A licensed instructor that does not issue any certificates of completion during the preceding month shall submit to the Director or authorized contractor a certified instructor report indicating "no activity" by the fifth day of the month following the period of no activity.
- E.** A licensed instructor shall provide the status of certificates of completion to the Director or authorized contractor upon request by identifying the certificates by number as either issued, not issued, lost, or stolen.
- F.** A certificate of completion is accountable forms inventory, and any misuse, fraud, or negligence by a licensed instructor involving the form may lead to Department revocation of the instructor's authorization to issue the form.

R17-5-320. Cease and Desist Order; Hearing and Appeal

- A.** The Department may immediately issue and serve a cease and desist order on a licensee, as prescribed under A.R.S. § 32-2394, if the Director or authorized contractor has reasonable cause to believe that the licensee has violated or is violating a federal or state law or an applicable administrative rule relating to a duty prescribed under this Article.
- B.** Except as provided under R17-5-304, the Department may immediately issue a cease and desist order on a person engaged in an activity regulated under this Article without being licensed by the Director or authorized contractor:
1. A cease and desist order shall be served at the person's last known address by either personal delivery or first class mail;
 2. A person served a cease and desist order under this Section may request a hearing with the Department's Executive Hearing Office; and
 3. A hearing requested by a person under this Section shall be noticed and conducted under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5.
- C.** A cease and desist order issued by the Department to a licensee under this Article shall:
1. Require the licensee on receipt of the order to cease and desist from further engaging in the prohibited conduct or in any activity authorized under this Article as specified in the cease and desist order, and
 2. Provide information regarding the licensee's right to request a hearing to show cause as to why the Department's order should not be upheld.
- D.** On failure or refusal of a licensee to comply with a cease and desist order, or after a requested hearing, the Department may cancel, suspend, or revoke the license of the licensee under A.R.S. § 32-2391 and R17-5-321.

R17-5-321. Non-compliance; Notice of Corrective Action; Cancellation, Suspension, or Revocation of a Professional Driver Training School or Instructor License; Hearing and Appeal

- A.** The Department may initiate corrective action on a licensee as provided under A.R.S. Title 32, Chapter 23, Article 3, and this Article, for:
1. Violating a federal or state law or applicable administrative rule relating to a duty prescribed under this Article, or
 2. Failing to maintain a status of good standing as defined under R17-5-301.
- B.** Corrective action initiated by the Department under subsection (A), depending on the severity or number of violations by a licensee, may include a term of probation, a cease and desist order under A.R.S. § 32-2394, a request for a hearing to cancel, suspend, or revoke an existing license, or a request for a hearing to deny renewal of a license.
- C.** The Department may send a notice of corrective action to an applicant, or a licensee's designated business contact, when reasonable grounds exist for the Department to request a hearing to:
1. Deny renewal of a professional driver training school or instructor license under A.R.S. § 32-2373; or
 2. Cancel, suspend, or revoke the license of a professional driver training school or instructor under A.R.S. § 32-2391.
- D.** A notice of corrective action issued by the Department under subsection (C) shall include:
1. The cause for the Department's request for a hearing; and
 2. The applicant's hearing and appeal rights, as provided under A.R.S. § 32-2391, for the cancellation, suspension, or revocation of a professional driver training school or instructor license.
- E.** The Department shall provide notice and conduct hearings as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5, as applicable.